

UNITED STATES OF AMERICA
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA

v.

CR# 03-10362 PBS

SEAN D. STARK

DEFENDANT'S MOTION FOR NEW TRIAL

Now comes the defendant, Sean Stark, by court appointed counsel, and moves this Honorable Court to order a New Trial in this matter. As reason therefore, the defendant assigns the following:

1. The prosecution's references to the "arrest" in its closing argument tainted the jury's deliberation in this case. The impact of this statement was made obvious by the fact that the jury asked a question which inquired whether they could consider that Mr. Stark was arrested. This argument seriously undermined the Court's orders regarding the Motion to Suppress.
2. The weight of the evidence was against the finding of guilt by the jury.
3. The jury should not have determined the weight of the drugs that were reasonably foreseeable to Mr. Stark, because the drugs themselves were suppressed and therefore the testimony regarding weight should not have been introduced. There was no evidence introduced as to the amount of drugs that Mr. Stark should have been accountable for. There was no other corroborative evidence to the amount of the drugs except for the amount testified to by the officer, which resulted from a weighing of the suppressed

drugs. Therefore, the jury should not have determined the drug weight involved in the conspiracy, but should only have determined the amount Mr. Stark was accountable for.

Respectfully Submitted
By his attorney,

Date: December 27, 2005

/s/ Melvin Norris
Melvin Norris
260 Boston Post Road
Wayland, MA 01778
(508) 358-3305
BBO# 373900